



## GENERAL TERMS AND CONDITIONS OF PURCHASE

Buyer's acceptance of Seller's quotations shall be expressly conditioned upon Buyer's assent to Seller's standard terms and conditions printed below. All orders will be subject to acknowledgement on Seller's standard sales order acknowledgment form by Seiler at Seller's appropriate order-entry location.

### STANDARD TERMS AND CONDITIONS

Any terms, conditions and/or provision (hereafter terms) of Buyer's order which is in any way inconsistent with or in addition to these terms shall not be applicable hereto or binding upon Seiler. If Buyer objects to any terms herein, such objection must be in writing and received by Seiler at the address stated on the face hereof prior to commencement of performance by Seiler.

Retention of Buyer of any terms delivered by Seiler hereunder shall be conclusively deemed acceptance of the terms hereof. Seller's failure to object to terms contained in any communication from Buyer will not be a waiver of the terms hereof.

**1. WARRANTIES:** THE FOLLOWING ARE IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND OF ANY OTHER WARRANTY OBLIGATION ON THE PART OF THE SELLER.

Seiler, except as otherwise hereinafter provided, warrants the goods against faulty workmanship or the use of defective materials and that such goods will conform to mutually agreed upon written specifications, drawings and other descriptions for a period set forth in the schedule below. Seiler warrants that at the time of delivery Seiler has title to the goods free and clear of any and all liens and encumbrances. These warranties are the only warranties made by Seiler and can be amended only by a written instrument signed by an officer of Seiler.

Seiler warranties shall be for six (6) months from date of shipment.

Continued use or possession of the goods after expiration of the applicable warranty period stated above shall be conclusive evidence that the warranty is fulfilled to the full satisfaction of the Buyer. The Buyer is solely responsible for the specification of manufacturer, rating and tolerance on fabricated components including but not limited to thermostats and thermal cutoffs (fuses).

Any tests performed by Seiler and any conclusions from these tests on Buyer's products are performed as a customer service solely for the purpose of providing information for the Buyer. By performing these tests, Seiler is in no way expressly or impliedly warranting the functioning of Seller's component in Buyer's product.

Seiler makes NO WARRANTY as to experiments or developmental goods or goods not manufactured by Seiler, provided as to goods not manufactured by Seiler, Seiler, as to the extent permitted by Seller's contract with its supplier, shall assign to Buyer any rights Seiler may have under any warranty of the Supplier thereof.

Seller's warranties as hereinabove set forth shall not be enlarged, diminished or affected by, and no obligation or liability shall arise or grow out of, Seller's rendering of technical advice or service in connection with Buyer's order of the goods furnished hereunder.

**2. REMEDIES AND DAMAGES:** If Seiler breaches its warranties as contained in Paragraph 1 herein, Seller's sole and exclusive liability shall be (at Seller's option) to repair, replace or credit Buyer's account for any such goods which are returned by Buyer during the applicable warranty period set forth above, provided that (i) Seiler is promptly notified in writing upon discovery by Buyer that such goods failed to conform to this contract with a detailed explanation of any alleged deficiencies (ii) such goods are returned to Seller's plant from which goods were shipped and (iii) Seller's examination of such goods shall disclose that such alleged deficiencies actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, unauthorized repair or improper testing. If such goods fail to conform to the warranty, Seiler shall reimburse Buyer for the transportation charges paid by Buyer for such goods, if Seiler elects to repair or replace such goods, Seiler shall have a reasonable time to make such repairs or replace such goods.

If Seiler breaches any other provisions of this contract, Seller's sole and exclusive maximum liability shall not in any event exceed the total contract price specified herein less the purchase price for any items delivered and accepted hereunder.

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In no event shall Seiler be liable to anyone for special, collateral, incidental or consequential damages for breach of any of the provisions of this contract, including without limitations, provisions regarding warranties, guarantees, indemnities, and patent infringement, such damages to include but not be limited to, costs of removal and reinstallation items, loss of good will, loss of profits, or loss of use.

Should Buyer fail in whole or in part to pay for goods manufactured and/or shipped in accordance with its purchase order or if Buyer fails to pay in timely fashion in accordance with paragraph 8 herein, Buyer shall be liable for payment of the contract price, late payment charges and all associated costs of collection of same including reasonable attorney's fees.

**3. APPLICABLE LAW:** The validity, performance and construction of this contract shall be governed by the laws of the State of New Hampshire, and both parties submit to the jurisdiction of New Hampshire courts should a dispute arise between them.

**4. TAXES:** Prices do not include any taxes, now or hereafter enacted, applicable to the goods sold or this transaction, which taxes will be added by Seiler to the sales price where Seiler is required by law to collect the same, and will be paid by Buyer unless Buyer provides Seiler with a proper tax exemption certificate.

**5. PRICES AND RELEASES:** Prices apply only if the quantity ordered hereunder is released for shipment within twelve (12) months from the date of Seller's receipt of Buyer's order, otherwise, Seller's standard in effect at time of release shall apply to quantity shipped and Buyer shall pay the difference in price, if any. Buyer grants to the Seiler the right at any time during the course of this contract to revise prices hereunder to Seller's then current standard prices by Seiler giving to Buyer advance written notice, such revised prices to apply to all goods thereafter shipped.

**6. TITLE AND DELIVERY:** All shipments of goods shall be delivered F.O.B. Seller's plant, and title and liability for loss or damage thereto shall pass to Buyer upon Seller's tender of delivery of the goods to a carrier for shipment to Buyer, and any loss or damage thereafter shall not relieve Buyer from any obligation hereunder. Buyer shall be liable for costs of insurance and transportation and for all import duties, taxes and any other expenses incurred or licenses or clearances required at port of entry and destination. Seiler may deliver the goods in installments. Shipping dates are approximate only. Seiler shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer if Seiler fails to meet the specified delivery schedule because of unavoidable production or other delays.

**7. QUANTITIES:** Any variation in quantities shipped over or under the quantities ordered (not to exceed 10%) shall constitute compliance with Buyer's order and the unit price will continue to apply.

**8. TERMS AND METHOD OF PAYMENT:** Where Seiler has extended credit to Buyer, terms of payment shall be net thirty (30) days from date of invoice. The amount of credit or terms of payment may be changed or credit withdrawn at any time. If the goods are delivered in installments, Buyer shall pay for each installment in accordance with the terms of payment hereof. Payment shall be made for the goods without regard to whether Buyer has made or may make any inspection of the goods. If shipments are delayed by Buyer, payments are due from the date when Seiler is prepared to make shipments. Goods held for Buyer are at Buyer's sole risk and expense.

**9. CONTINGENCIES:** Seiler shall be excluded from performance and shall not be liable for any delay in delivery or for non-delivery, in whole or in part caused by the occurrence of any contingency beyond the control either of Seiler or Seller's suppliers, including but not limited to, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms of this contract or otherwise judicial action, labor dispute, accident, fire, explosion, flood, storm, or other act of God, shortage of labor, fuel, raw material or machinery or technical or yield failure where Seiler has exercised ordinary care in the prevention thereof, if any contingency occurs. Seiler may allocate production and deliveries among Seller's customers.

**10. SUBSTITUTIONS AND MODIFICATIONS OF GOODS:** Seiler may modify the specifications of goods designed by Seiler and substitute goods manufactured to such modified specifications for those specified herein, provided such goods substantially conform to the contract.

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Effective date: October 2017



**11. TERMINATION AND CANCELLATION:** Buyer may terminate this contract in whole or from time to time, in part upon thirty (30) days advance written notice to Seiler. In such event, Buyer shall be liable for termination charges which shall include a price adjustment based on the quantity of goods actually delivered, and all costs, direct and indirect, incurred and committed for this contract together with a reasonable allowance for prorated expenses and anticipated profits.

a. Unless otherwise in the face hereof, all quantities must be released no more than twelve (12) months from the date of Seller's receipt of Buyer's purchase order, otherwise this contract may be cancelled by Seiler and Buyer shall be liable for termination charges as provided herein.

b. If in Seller's judgment, Buyer's financial condition does not justify the terms of payment specified herein, Seiler may cancel this contract unless Buyer shall immediately pay for all goods which have been delivered and pay in advance for all goods to be delivered.

**12. NON-WAIVER OF DEFAULT:** In the event of any default by Buyer, Seiler may decline to make further shipments. If Seiler elects to continue to make shipments, Seller's actions shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for any such default.

**13. U.S. GOVERNMENT CONTRACTS:** If the goods to be furnished under this contract are to be used in the performance of a U.S. Government contract or subcontract and a U.S. Government contract number shall appear on Buyer's purchase order, those clauses of the applicable U.S.

Government procurement regulation which are mandatorily required by Federal Statute to be included on U.S. Government subcontracts shall be incorporated herein by reference.

**14. ASSIGNMENT:** This contract shall be binding upon and inure to the benefit of the parties and the successors and assigns of the entire business and good will of either Seiler or Buyer, or of that part of the business of either used in the performance of this contract, but shall not otherwise be assignable.

**15. MODIFICATIONS:** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES RELATING TO THE SALE OF THE GOODS DESCRIBED ON THE FACE HEREOF AND SUPERCEDES ALL PREVIOUS COMMUNICATIONS, REPRESENTATIONS OR AGREEMENTS, EITHER ORAL OR WRITTEN, WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND NO REPRESENTATIONS OR STATEMENTS OF ANY KIND MADE BY ANY REPRESENTATIVE OF SELLER, WHICH ARE NOT STATED HEREIN, SHALL BE BINDING ON SELLER, NO ADDITION TO OR MODIFICATION OF ANY PROVISION UPON THE FACE OR REVERSE OF THIS CONTRACT SHALL BE BINDING UPON SELLER UNLESS MADE IN WRITING AND SIGNED BY A DUL Y AUTHORIZED REPRESENTATIVE OF SELLER LOCATED AT SELLER'S APPROPRIATE ORDER ENTRY LOCATION. NO COURSE OF DEALING OR USAGE OF TRADE OR COURSE OF PERFORMANCE SHALL BE RELEVANT TO EXPLAIN OR SUPPLEMENT ANY TERM EXPRESSED IN THIS CONTRACT.

**16. AFFIDAVITS AND CERTIFICATES:** No certificates of compliance, conformance, or chemical analysis shall be provided unless Buyer's detailed requirements are stated on the face of the Buyer's order. Seiler reserves the right to charge an additional fee for any such certificate.

**17. SIZES, TOLERANCES AND INSPECTION:** Quotations are preferably made on the basis of Buyer's prints. When quotations are made on the basis of samples or otherwise, the dimensions on which the quotation is based will be stated. The dimensions for quoting and manufacturing are the mean specifications and are subject to the normal tolerances for variations. Unless otherwise specified in the Buyer's prints or specifications tolerances shall be +/- 5% from the nominal.

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**18. TOOLS AND DIES:** Unless otherwise provided herein, where fitting-up charges are specified all tools and dies, including without limitation fixtures, gauges and assembly equipment, manufactured for this contract will be Seller's property, but will be retained by Seiler for Buyer's non-exclusive use; provided, however, that Seiler may dispose of such tools and dies if Buyer does not order from Seiler goods for manufacture there from within any one (1) year period. If any tools and dies manufactured by Seiler are to become Buyer's property, it must be specifically so provided herein. Any such tools and dies or any materials, tools, dies and other equipment by Buyer to Seiler, shall be at Buyer's sole risk and expense, and Seiler shall not be liable for loss, damage, maintenance, repair or renewal regardless of cause. If Buyer desires to withdraw such tools and dies from Seller's plant for any reason, Buyer will first compensate Seiler for any cost incurred with respect to them, including, without limitation design and development costs. Where Buyer requires samples from Seiler to verify completion of fitting -up, Buyer will pay for such fitting-up within thirty (30) days after receipt of the samples unless Buyer within such period gives Seiler a written description of any unallowable variance from specifications in which case Buyer will promptly pay upon correction of such variance.

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